



FREDERICK COUNTY PLANNING COMMISSION

October 9, 2019

TITLE: Highlands of Monroe
Lots 301-302 and Remainder

FILE NUMBER: S-913, AP 19813 (APFO N/A, FRO 19814, 19816)

REQUEST: Agricultural Cluster Concept Plan Approval
The Applicant is requesting Concept Plan approval for a 2-lot Agricultural Cluster subdivision on a 329 acre parcel.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located between Harp Hill Road to the east and Meeting House Road to the west
TAX MAP/PARCEL: Map 38, Parcel 31, Tax ID#06-184650
COMP. PLAN: Agricultural/Rural
ZONING: Agricultural
PLANNING REGION: Middletown
WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: Thomas M. Monroe, III, Elizabeth Carey, Norton Mock
OWNER: Thomas M. Monroe, III, Elizabeth Carey, Norton Mock
SURVEYOR/ENGINEER: Catoctin Mountain Surveys, Inc., Karl Pryor
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Craig Terry, Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1: Concept Plan
EXHIBIT 2: Concept Plan Detail

STAFF REPORT

ISSUE

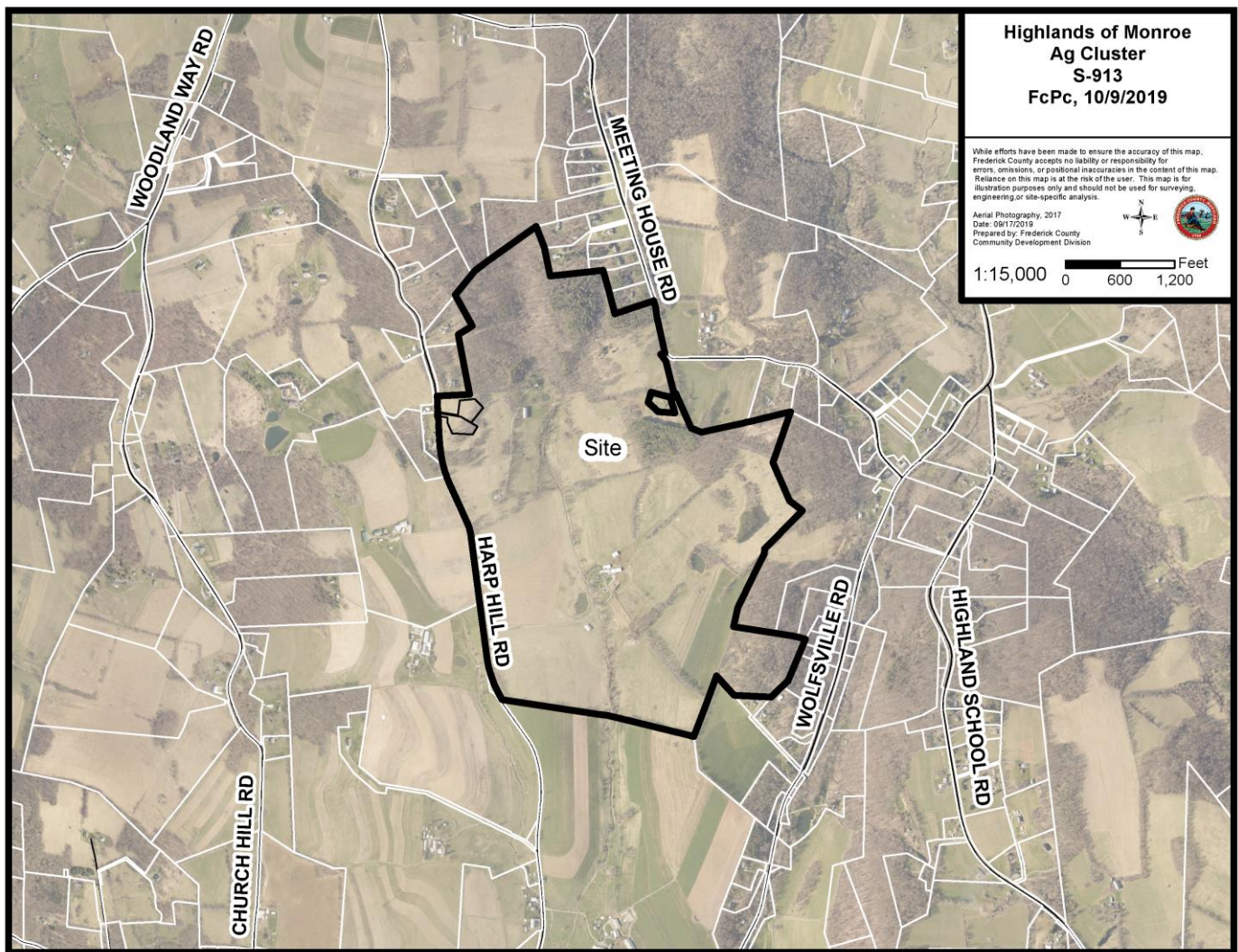
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BACKGROUND

This property is zoned Agricultural (AG) and originally contained approximately 335 acres. 5 lots have been previously subdivided from the acreage (two in 1985, two in 1987, and one in 1996), leaving the parcel at its current 329± acres. Under §1-19-7.300(C)(2)(d), 329 acres gives the development potential of up to a total of 9 cluster lots.

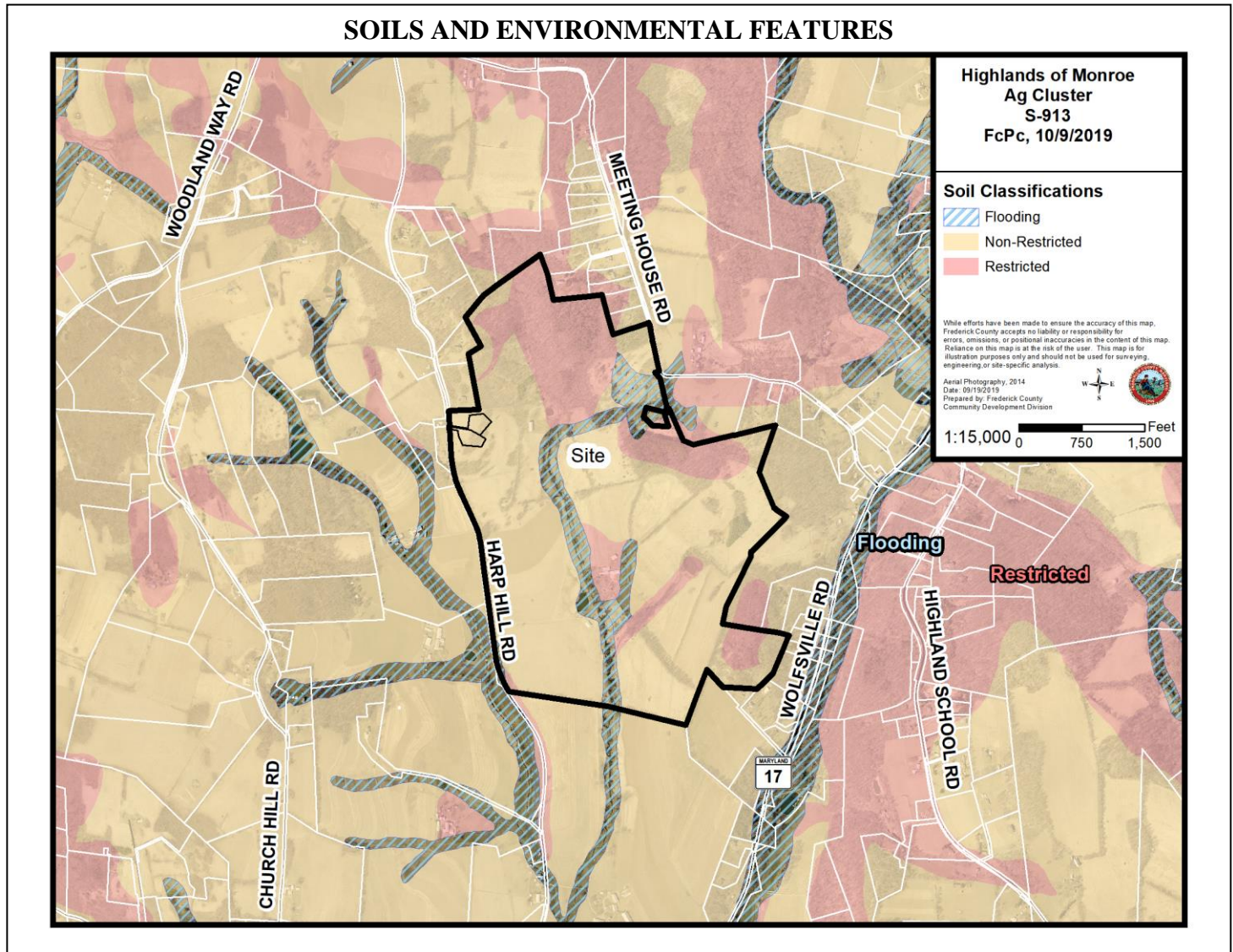
The proposed lots (301 & 302) will be the 6th and 7th lots off the parcel since 1965 which makes it a major subdivision. Major subdivisions require PC approval once the Combined Preliminary / Final Plat is submitted. The land is subject to a MALPF easement (Maryland Agricultural Land Preservation Fund), and the proposed lots are intended for family members of the farm operation. Only the original grantors of the easement are allowed to request these family lots, and the acreage for the new lots will need to be released from the preservation easement by the State prior to the final plat recordation.

DEVELOPMENT SITE AND SURROUNDINGS

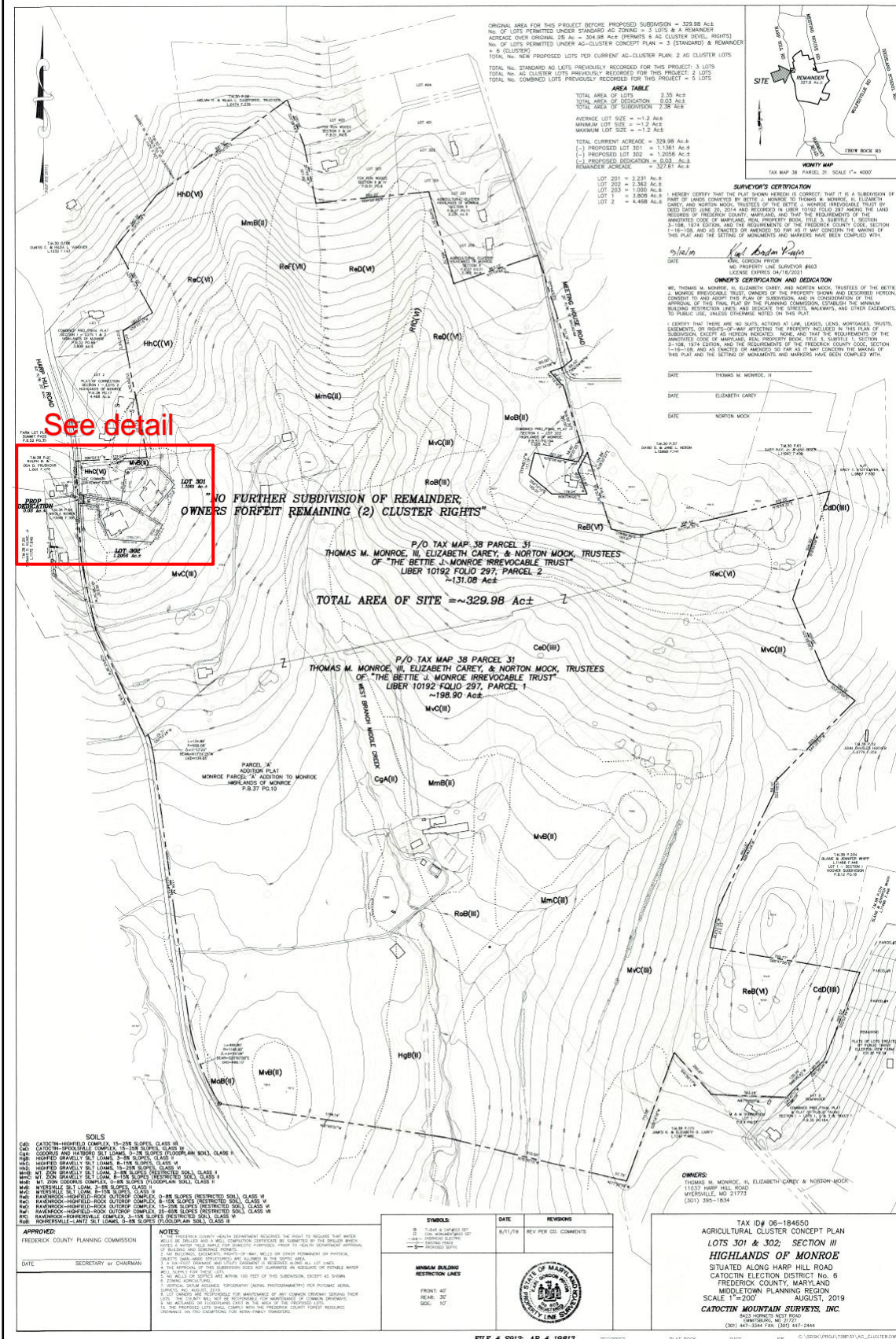


Existing Site Characteristics

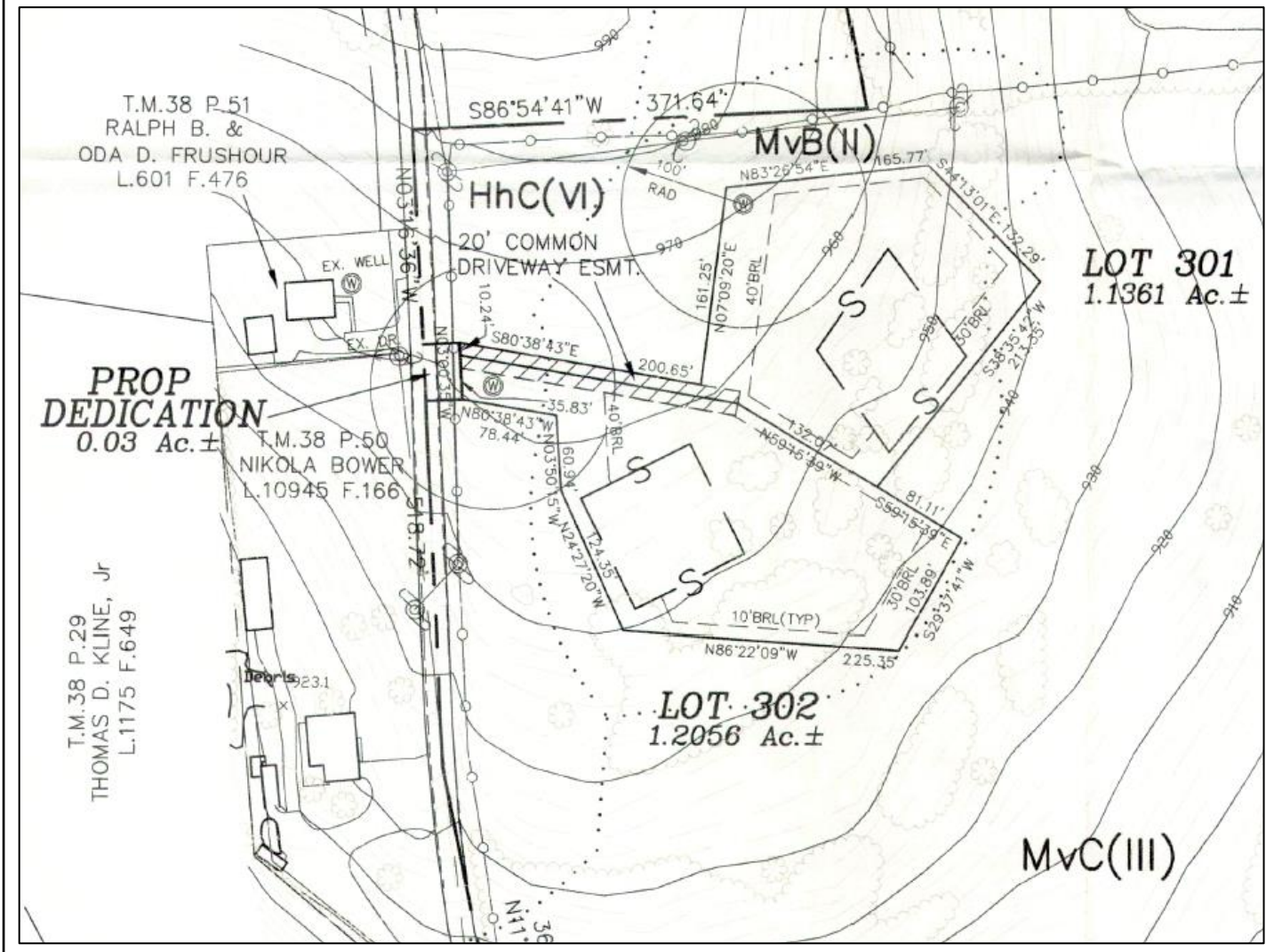
The property contains approximately 329 acres and is primarily used for agricultural purposes, including raising crops and pasture land. The improvements include one primary structure and two tenant houses. There are several agricultural use type structures located throughout the farm and near the dwellings. West Branch Creek bisects the property, flowing from north to south. A delineation of Flooding Soils is located along the both sides of the creek, as well as a couple of small areas of wetlands branching off from the creek. The majority of the property contains Non-Restricted Soils, but some areas are encumbered with Restricted and Wet Soils. The area of the proposed lots is Non-restricted.



AG CLUSTER CONCEPT PLAN OVERVIEW



AG CLUSTER CONCEPT PLAN DETAIL



ANALYSIS

A. Zoning Ordinance Requirements: § 1-19-7.300. AGRICULTURAL DISTRICT.

§1-19-7.300(B): *The minimum lot size for single-family dwellings will be 40,000 square feet...*

§1-19-7.300(C)(2)(c): *Clustering Requirements. Minimum lot size, width and yard areas shall be as specified in the Agricultural District. Lot size shall average not more than 1.5 acres in size with no lots exceeding 2 acres. The Planning Commission shall have the authority to grant modifications to lot sizes based on percolation and other Health Department requirements.*

Both of the proposed lots meet the minimum 40,000 sq. ft. lot size requirement. The proposed minimum lot width (100 feet) and yard areas (40 foot front yard, 30 foot rear yard, and 10 foot side yard) meet Agricultural District requirements in accordance with §1-19-6.100 Design Requirements of the Zoning Ordinance. The proposed lots are 1.1361 and 1.2056 acres in size. The average lot size for the two proposed lots is 1.2 acres, therefore the lots meet the size criteria under §1-19-7.300(C)(2)(c) of the Zoning Ordinance.

§1-19-7.300(C)(2)(d): *A minor subdivision of 3 lots will be permitted to be subdivided on an original tract of land 25 acres or less...On an original tract of land containing more than 25 acres, the Planning Commission may allow 1 lot in addition to those allowed on lesser tracts for each additional 50 acres or part thereof above the first 25 acres...*

This parcel contains 329 acres. Under the cluster provisions, up to 9 lots can be subdivided from the property (3 conventional + 6 cluster lots = 9). Five lots have been previously subdivided, leaving the potential for 4 more lots. The applicants propose to use two of the four lots and forfeit the remaining two. Under the provisions of the MALPF easement, lots may only be created for family members.

§1-19-7.300(C)(1): *Clustering: Purpose and intent.*

(a) *To encourage the conservation of farmland in the Agricultural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.*

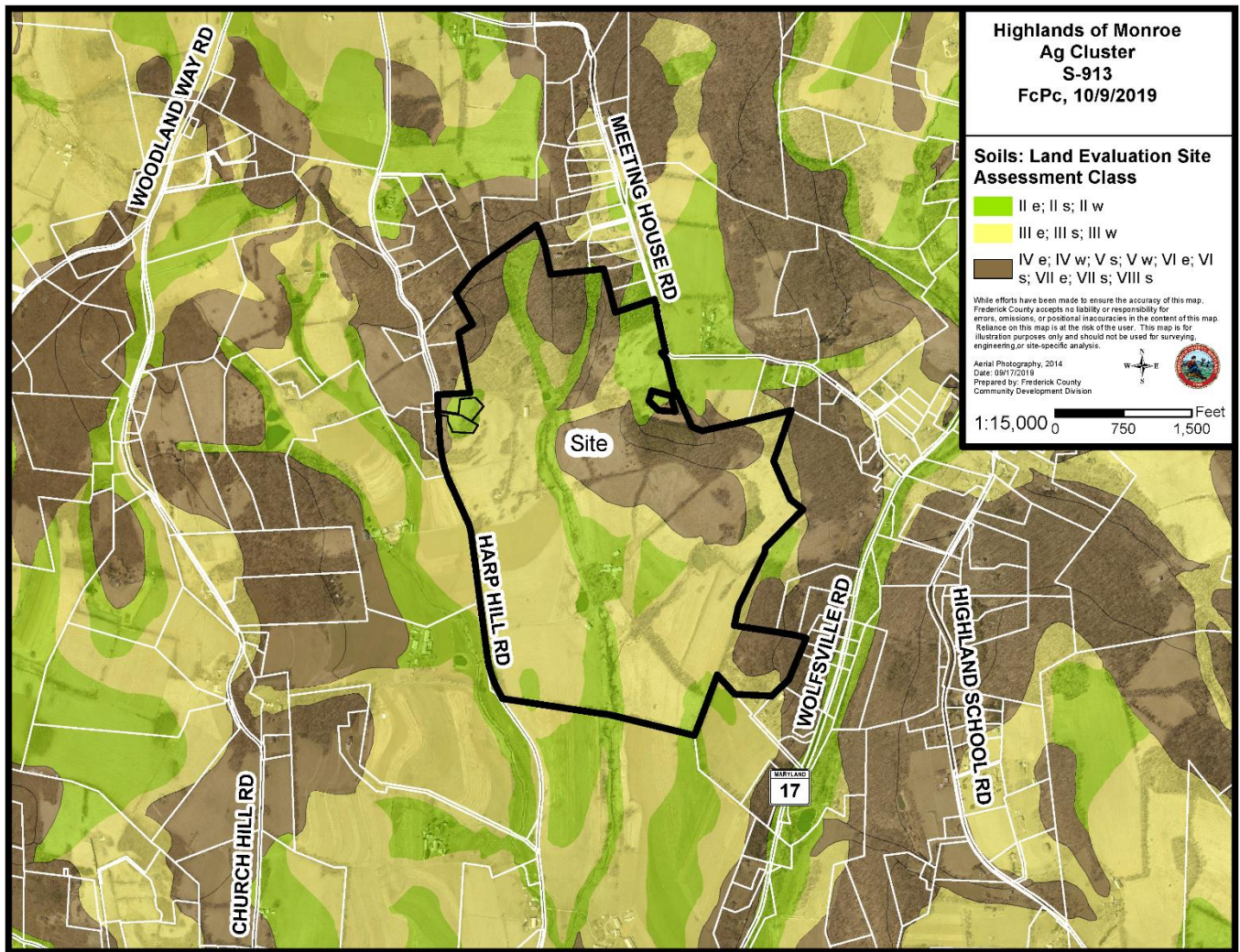
(b) *To provide for a well-planned development while minimizing the use of prime agricultural land.*

§1-19-7.300(C)(3): *Procedures:*

(b) *The Planning Commission will have final approval over the location and layout of the proposed clustering of lots. The Planning Commission shall consider the following when reviewing Concept Plans.*

1. *Soils. The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.*

2. *Surrounding land use and zoning. The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.*

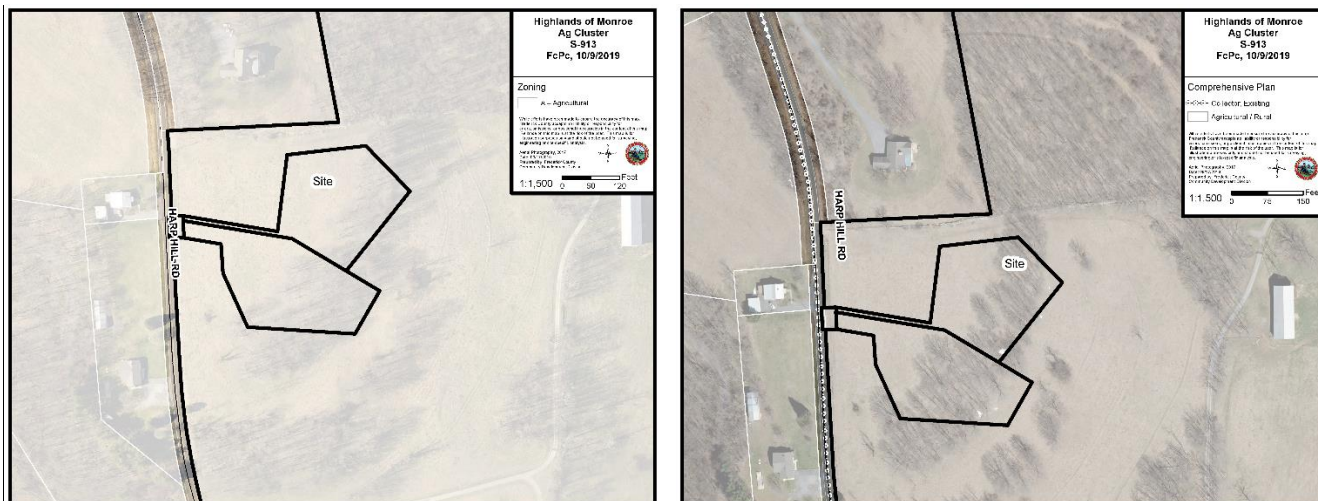


The proposed 2 lot cluster subdivision is situated at the north western corner of the property, near the previously divided Lots 1 & 2. The 329 acre parcel mainly consists of Class II and III prime agricultural soils, with some smaller areas of Class IV and lower. The proposed lots are located within Class II (MvB) soils.

Though there are lesser classified soils on the parcel (Class III & IV), the proposed lot layout near the existing development creates less of an impact on the existing farm operations. Furthermore, the area of Class IV soils located on the eastern portion of the acreage is inaccessible to development due to the limited width of Meeting House Road (being < 16'). If the proposed lots were to be located in the Class III or IV soils, it would place residential structures in an area that could interrupt the continuity of the farming operations. The proposed lot location and layout has been reviewed and approved by MALPF.

Zoning Ordinance Requirements Findings/Conclusions: The proposed subdivision will meet all Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.

ZONING / COMPREHENSIVE PLAN



B. SUBDIVISION REGULATION REQUIREMENTS

1. **Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

The subject property has an Agricultural/Rural Comprehensive Plan land use designation (see map above). The proposed land use and subdivision design complies with the County Comprehensive Plan and will meet Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.

2. **Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site design takes advantage of the Site's topography, wooded areas, water bodies, and adjoining subdivisions and land uses. The overall parcel contains an existing stream, flooding and wet soils, as well as wetlands. The area of the proposed subdivision does not contain unique topography, forest, or water bodies. The proposed subdivision is located as near to residential lots as allowed by driveway spacing requirements and is situated so as to avoid the existing environmental features and their buffers.

3. **Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** *Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland....*

There are no 'wet soils' areas near the proposed lots.

Road Access Requirements. Public Facilities §1-16-12 (B)(3)(a): For minor subdivisions; A 16-foot travelway width shall be the normal minimum standard...”.

The proposed lots will access Harp Hill Road, which is designated a Collector roadway on the Comprehensive Plan. Harp Hill Road has a 20 foot wide paved roadway, which meets the criteria for a major subdivision. The 60 foot wide required right-of-way will be dedicated along the common driveway and panhandle frontage of the proposed lots.

Access to Harp Hill Road will be via a common driveway. Notes will be required on the final plat indicating that the lot owners shall be responsible for maintaining the common driveway. The common driveway must be constructed prior to lot recordation in accordance with §1-16-109(D)(8).

The proposed common driveway will provide adequate sight distance.

The proposed common driveway, when lined up with the opposing existing driveway, meets the 350' requirement for approving a common entrance as per the Entrance Spacing policy.



Harp Hill Road looking north from existing d/w, 350' from proposed d/w. The subject property is on the right side of the photo.



Harp Hill Road looking south from proposed common d/w location. The subject property is on the left side of the photo.

4. **Lot Size and Shape. Panhandle Lots §1-16-219 (C)(2):** *Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that “excellence of design” will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine “excellence of design” based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.*

Lots 301 & 302 are designed as panhandle lots. Since this is a major subdivision, a modification for the panhandle design is required by the Code. This modification must be granted by the FcPc at the combined Preliminary/final Plat phase.

5. **Water and Sewer Facilities. Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service and must utilize private wells and septic systems. The percolation tests will be performed after the approval of this concept plan and the applicant's submission of the subdivision plat. Wells must be drilled prior to lot recordation.

Subdivision Regulation Requirements Findings/Conclusions: The project will meet all Subdivision Regulation requirements once all agency comments and conditions are met.

C. OTHER APPLICABLE REGULATIONS

- 1. Stormwater Management – Chapter 1-15.2:** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. Stormwater management will be addressed with future plan submittals.
- 2. APFO – Chapter 1-20:** These are the 2nd and 3rd lots subdivided from the original agricultural tract since 1991, therefore this subdivision is not subject to APFO requirements per 1-20-7(B).
- 3. Forest Resource Ordinance – Chapter 1-21:** The Applicant submitted Intra-family Transfer Declarations of Intent for Lots 301 and 302 to exempt them from the Forest Resource Ordinance (FRO). The lots are being created for owners, under condition that they remain in their ownership for at least five years following the date of plat recordation. No more than 20,000 square feet of forest may be removed on each lot.

Summary of Agency Comments

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (PWDR):</i>	Conditional Approval. Stormwater management, road frontage improvements, common drive construction, etc. to be addressed with future plans.
<i>Development Review Planning:</i>	Hold. Must meet all agency and FcPc comments and conditions.
<i>State Highway Administration (SHA):</i>	N/A
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	N/A
<i>Health Dept.</i>	Health Department has no objection to Ag. Concept Plan, however, all perk testing and subdivision requirements under COMAR 26.04.03 must be met for Subdivision approval. All perk testing will be completed off the combined preliminary plan and all existing houses must also meet COMAR 26.04.03 requirement including having wells and septic systems that meet current regulations, therefore each existing house will be evaluated to the need for perk testing and possible drilling of wells.
<i>Office of Life Safety</i>	N/A
<i>Traffic Engineering (DRTE)</i>	Conditional Approval. Dedication, driveway spacing and sight distance will be addressed at preliminary plan.
<i>Historic Preservation</i>	N/A

RECOMMENDATION

If the Planning Commission finds that the proposed concept plan meets the Ag Cluster provisions of the Zoning Ordinance, then Staff has no objection to the conditional approval of the Concept Plan.

Based upon the findings, conclusions, and modifications as presented in this staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements once the following modification requests are granted and conditions met:

Staff-proposed conditions of approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. Concept Plan approval shall become null and void at the end of one (1) year from the date of FcPc approval unless a preliminary plan or Combined Preliminary/Final Plat is submitted for approval within this one year approval period.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE S-913 (AP 19813) with conditions** as listed in the staff report for the proposed Highlands of Monroe, Lots 301-302 and Remainder, Agricultural Cluster Concept Plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.